

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BERTHA BATEY,)	
)	
Plaintiff,)	
)	
)	
vs.)	CASE NO. 3:05-0996
)	JUDGE ECHOLS/KNOWLES
)	
)	
METROPOLITAN GOVERNMENT)	
DEPARTMENT OF HOSPITALS,)	
et al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

On March 30, 2006, the undersigned entered an Order requiring Plaintiff to file a written statement showing good cause for her failure to serve Defendant within 120 days after the filing of the Complaint, as required by Fed. R. Civ. P. 4(m). Docket No. 5.

On April 17, 2006, Plaintiff, who is proceeding pro se, filed a Response to that Order. Docket No. 6. The body of that Response states as follows:

Acceptance plea I filed in response to this Court Order of 03/20/2006 per plaintiff. Continuous catastrophic occurrences causes plaintiff mental and physical anguish. These occurrences are the direct result of defendants actions or lack of action, in respect to the plaintiff. As a result plaintiff's is now at her fourth location – residing with members of her family.

Because these occurrences are beyond plaintiff control, plaintiff submit the above plea for acceptance as her response to this Court Order of 03/20/2006.

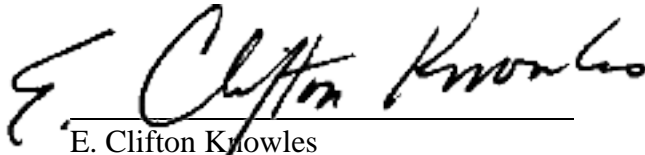
On April 18, 2006, the Clerk of this Court issued seven summonses that were apparently

prepared by Plaintiff. Docket No. 7. Those seven summonses were issued to: John M. Stone, Mayor Bill Purcell, Wallace Hitchcox, David Hollock, Thomas Deweese, Governor Philip Bredesen, and "Hospital Administrator Case Re: John Stone - previous administrator." The Court notes, however, that the only Defendant in this action is "Metropolitan Government, Department of Hospitals." The seven persons for whom summonses were issued on April 18, 2006, are not Defendants in this case. Moreover, Plaintiff did not obtain a summons for the only entity that she has sued herein.

Plaintiff's Response does not establish good cause for her failure to serve the Summons and Complaint upon Defendant within 120 days after the filing of the Complaint.

For the foregoing reasons, the undersigned recommends that this action be DISMISSED WITHOUT PREJUDICE.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).



E. Clifton Knowles
United States Magistrate Judge